

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



ALFALFA SEED
PRODUCTION RESEARCH PROGRAM

Effective July 9, 1973
Incorporating Amendments Through June 24, 1999

ALFALFA SEED PRODUCTION RESEARCH PROGRAM

ARTICLE I

DEFINITIONS

Section A. DEFINITION OF TERMS. As used in this Program, the following terms shall have the following meanings:

1. "Act" means the California Marketing Act, being Chapter 1, Part 2, Division 21 of the Food and Agricultural Code, as amended, or as the same may be hereafter amended.
2. "Department" means the Department of Food and Agriculture of the State of California.
3. "Alfalfa Seed Production Research Program" or "Program" means, unless the context otherwise indicates, this Marketing Order which is issued by the Department pursuant to the provisions of the Act.
4. "Alfalfa Seed Production Research Board," "Advisory Board," and "Board" are synonymous and mean the Board created pursuant to Article II of this Program.
5. "Producer" and "Grower" are synonymous and mean any person or business entity engaged within this State in the business of producing, or causing to be produced, alfalfa seed.
6. "Processor" and "Conditioner" are synonymous and mean any person or business entity engaged within the State in the business of processing, or causing to be processed, alfalfa seed, and may be the same person or business entity as a producer. (Amended 1979)
7. "Alfalfa Seed," unless the context indicates otherwise, is seed of alfalfa produced in California.
8. "Processing" or "Processed" and "Conditioning" or "Conditioned" are synonymous and mean cleaning and other activities performed with respect to alfalfa seed so that it conforms with the definition herein of "Marketable Alfalfa Seed." Amended 1979
9. "Marketable Alfalfa Seed" means alfalfa seed which has been cleaned, or caused to be cleaned, for marketing for any purpose.
10. "Marketing Season" or "Fiscal Period" means a twelve- month period beginning April 1 of any year and extending through March 31 of the following year.
11. "Hundredweight" or "Cwt." are synonymous and mean one hundred (100) pounds avoirdupois, excluding tare.

ARTICLE II

ALFALFA SEED PRODUCTION RESEARCH BOARD

Section A. ESTABLISHMENT, MEMBERSHIP, AND TERM OF OFFICE.

1. A board to be known as the Alfalfa Seed Production Research Board is hereby established and shall consist of ten (10) members to assist the Department in the administration of this Program. The Board shall be composed of five (5) producers, and five (5) conditioners (processors) (Amended 5/15/82)

2. There shall be an alternate member for each member of the Board. Each respective alternate shall be selected in the same manner and for the same term as the member to whom he/she is alternate member.

3. Members and alternate members shall be appointed by the Department from nominations received for that purpose.

4. The regular term of office of members of the Board shall be three (3) years, beginning March 1 and ending the last day of February of the appropriate years. However, to provide for staggered terms of office for appointees to the initial Board, one (1) producer member and one (1) processor member shall serve a term of office ending the last day of February, 1974; one (1) producer member and one (1) processor member shall serve a term of office ending the last day of February, 1975; and two (2) producer members and two (2) processor members shall serve a term of office ending the last day of February, 1976. The terms of office of the members of the initial Board may be determined partially or entirely by lot.

5. Representation on the Board shall be by districts as follows:

a. District 1 -- shall have one (1) producer member and his/her alternate and one (1) processor member and his/her alternate and shall include the counties of Marin, Sonoma, Napa, Solano, Sacramento, and El Dorado and all counties to the north thereof.

b. District 2 -- shall have three (3) producer members and their alternates and three (3) conditioner (processor) members and their alternates and shall be composed of the counties of San Francisco, Contra Costa, San Joaquin, Amador, and Alpine and all counties to the south thereof except counties which are included in District 3. (Amended 5/15/82)

c. District 3 -- shall have one (1) producer member and his/her alternate and one (1) processor member and his/her alternate and shall include the counties of Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Imperial.

6. Notwithstanding other provisions of this Article II, and upon recommendation of the Board, the Department may appoint one (1) member and one (1) alternate member to the Board to

represent the general public in addition to the ten (10) voting members of the Board provided for in this Article II. Such persons shall not be affiliated in any way with respect to the production, processing or marketing of alfalfa seed and shall have all the rights and privileges, including voting, of any other member or alternate member of the Board. The regular term of office of any member or respective alternate member appointed pursuant to this subsection 6 shall be as close as possible to three full years and shall terminate on the last day of February during the third year of their appointment. (Amended 5/15/82)

Section B. NOMINATION OF MEMBERS OF BOARD.

1. Nominations for the initial Board shall be made at the public hearing held for the purpose of formulating this Program.

2. Insofar as practicable, producers and processors shall nominate not less than two (2) eligible persons to serve as a member of the board for each member position available. The purpose of two (2) or more nominees shall be to provide at least one (1) nominee for member and at least one (1) nominee for alternate member.

3. The Board may recommend nomination procedures for Boards subsequent to the initial Board.

Section C. SELECTION AND APPOINTMENT OF MEMBERS OF BOARD. In appointing the members and alternate members of the initial Board, the Department shall select eight (8) members and eight (8) alternate members from the persons nominated at the public hearing held for the purpose of formulating this Program and such other nominations as may be received. In appointing the members and alternate members of subsequent Boards, the Department shall select the number of members and alternate members whose terms are then expiring from nominees obtained from nomination procedures held pursuant to this Program for that purpose. Appointments by the Department to the Board shall be consistent with the provisions of Sections A and B of this Article II.

Section D. FAILURE TO NOMINATE. In the event nominations are not made pursuant to this Article II and within the time specified herein, the Department may select members and alternate members without regard to nominations, but who otherwise meet the requirements for members and alternate members set forth in this Article II.

Section E. QUALIFICATION. Any person appointed by the Department as a member or as an alternate for a member shall qualify by filing with the Department a written acceptance and such other documents as may be required.

Section F. ALTERNATE MEMBERS. An alternate member of the Board shall, in the absence of the member for whom he/she is alternate, sit in the place and stead of such member at any meeting of the Board and shall have all the powers, duties, and privileges of the member while attending any such meeting. In the event of the death, removal, resignation, or disqualification of the member, his/her alternate shall act in his/her place and stead until a successor to such member is selected and has qualified.

Section G. VACANCIES. The Department shall fill any vacancies occasioned by the removal, death, resignation, or disqualification of any member or alternate member of the Alfalfa Seed Production Research Board. In making such selection, the Department may take into consideration any reserve nominees and nominations made by the remaining members of the Board.

Section H. ORGANIZATION.

1. The Alfalfa Seed Production Research Board shall not perform any of its duties nor exercise any of the powers herein granted when more than two (2) vacancies in its membership exist.

2. Six (6) voting members of alternates of the Board shall constitute a quorum. Any recommendation of the Board to the Department shall require an affirmative vote of a majority of the voting members present or alternates present and acting in the place and stead of voting members. (Amended 5/15/82)

Section I. EX-OFFICIO MEMBERS. Each year the Board may recommend, and the Department may approve, the participation of ex- officio members in any or all deliberations of the Board; provided, that such participants shall not be counted in determining the presence of a quorum nor may they participate in voting on matters under consideration by the Board.

Section J. COMMITTEES. The Board may recommend, and the Department may appoint, such committees as may be deemed necessary to assist the Board and the Department in performing the duties authorized pursuant to this Program.

Section K. EXPENSES. The members and alternate members of the Board, including ex-officio members, and of any committees established pursuant to Section J above, may be reimbursed for allowable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers hereunder. However, no such member or alternate member shall receive a salary for the performance of such duties.

Section L. DUTIES AND POWERS OF THE BOARD. The Board shall have the following duties and powers which may be exercised subject to the approval of the Department:

1. To administer the provisions of this Program.
2. To recommend to the Department administrative rules and regulations relating to this Program.
3. To receive and report to the Department complaints of violations of this Program.
4. To recommend to the Department amendments to this Program.
5. To assist the Department in the assessments and collection of such assessments to cover expenses incurred by the Board and the Department in the administration of this Program.
6. To assist the Department in the collection of such necessary information and data as the Department or the Board may deem necessary to the proper administration of this Program and the Act.
7. To keep minutes, books, and records which will clearly reflect all of its meetings, acts, and transactions and to provide the Department with copies of the minutes duly certified by an authorized officer of the Board. Said minutes, books, and records shall, at all times, be subject to examination by the Department or its duly authorized representatives.
8. To employ such personnel as may be deemed necessary and to fix their compensation and terms of employment.

Section M. LIMITATION OF LIABILITY OF MEMBERS OF THE BOARD. The members and alternate members of the Alfalfa Seed Production Research Board, ex-officio members, or members and alternate members of any committees hereunder duly appointed by the Department, and the employees of such Board shall not be responsible individually in any way whatsoever to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the Board, committee, or employee. The liability of the Board, its committees, or employees shall be several and not joint and no member or alternate member shall be liable for the default of any other member or alternate member.

ARTICLE III

RESEARCH STUDIES

Section A. RESEARCH AUTHORIZATION. The Alfalfa Seed Production Research Board, subject to the approval of the Department, is hereby authorized to carry on, or cause to be carried on, any necessary and proper research relating to the production of alfalfa seed and to expend monies for such purposes.

Section B. RESEARCH RESULTS. An annual report is required from the project leader of each funded research project. This report will appraise the Board of the status of the problems and progress of the research undertaken. A general financial statement will be included in this annual report for each funded project.

Section C. PLANT MATERIAL DEVELOPMENT. Any new plant germ plasm material resulting by chance from a project funded by the Program shall be released on an unrestricted basis.

ARTICLE IV

BUDGETS AND RATE OF ASSESSMENT

Section A. BUDGETS AND RATE OF ASSESSMENT. At the beginning of each fiscal period hereunder and as deemed necessary thereafter, the Board shall recommend to the Department a budget or budgets of estimated expenditures and reserves for the administration of this Program and the activities authorized hereunder. The Board shall also recommend a rate of assessment calculated to provide adequate funds to defray said proposed expenditures and provide for such reserves as set forth in said budget or budgets; provided, such rate of assessment shall not exceed twenty cents (20 cents) per hundredweight (Cwt.); and provided, further, one-half (1/2) of said assessment rate shall be upon producers and one-half (1/2) of said assessment rate shall be upon processors.

Section B. APPROVAL OF BUDGETS AND FIXING OF RATE OF ASSESSMENT BY THE DEPARTMENT. If the Department finds that the recommended budget or budgets and rate of assessment are proper and equitable and calculated to provide such funds as may be necessary properly to carry out the provisions of this Program, it may approve such budget or budgets and rate of assessment; provided, such rate shall not exceed twenty cents (20 cents) per hundredweight (Cwt.); and, provided, further, one-half (1/2) of said assessment rate shall be upon producers and one-half (1/2) of said assessment rate shall be upon processors.

Section C. PAYMENT AND COLLECTION OF ASSESSMENTS.

1. Any assessment levied pursuant to this Program shall constitute a personal debt of every person so assessed and shall be due and payable to the Department at such times and in such manner as the Department may prescribe; provided, (1) in those cases where the processor takes title to alfalfa seed processed by him/her, he/she shall remit to the Department both the producer portion and the processor portion of such assessment and may deduct the producer portion from any monies owed by him/her to said producer, and (2) in those cases where the processor does not take title to alfalfa seed processed by him/her, he/she may add the producer portion of said assessment to the charge for processing such alfalfa seed or to the charge for any other services performed or provided by him/her to such producer and remit both the producer portion and the processor portion of said assessment to the Department; and, provided, further, in the event a processor who does not take title to alfalfa seed processed by him/her does not remit assessments to the Department as authorized herein, the producer who caused such alfalfa seed to be processed shall be liable for the payment of the producer portion and the processor portion of any such assessment levied hereunder. In any event, assessments shall be due and payable at the time alfalfa seed conforms with the definition of "marketable alfalfa seed" as defined herein.

2. Failure to Pay - Penalty. Any assessment levied hereunder shall be payable only one time, shall constitute a personal debt of every person or business entity having an assessment obligation hereunder, and shall be due and payable to the Department as it may direct. In the event of failure of any person or business entity having an assessment obligation hereunder, to pay such assessment, the Department may file a complaint against such person or business entity in a State court of competent jurisdiction for the collection thereof pursuant to the provisions of Section 58929 of the Act. The Department may add to any unpaid assessment a collection expense penalty not to exceed ten percent (10%) of such unpaid assessment.

Section D. REFUNDS. Any money collected as assessments during a marketing season and not expended in connection with this Program may, at the discretion of the Department, be refunded after the close of any marketing season upon a pro rata basis to all persons or business entities from whom assessments were collected; or all or a portion of such money as may be recommended by the Board and approved by the Department may be carried over into the next marketing season if the Department finds that such money may be required in defraying the cost of this Program in such succeeding season.

ARTICLE V

GENERAL PROVISIONS

Section A. ADMINISTRATIVE RULES AND REGULATIONS. Upon the recommendation of the Alfalfa Seed Production Research Board, the Department is authorized to issue and make effective administrative rules and regulations and interpretations of terms as provided for under Article 10 of the Act.

Section B. CONTRACTS AND AGREEMENTS. As deemed necessary by the Board and the Department in order to facilitate the budgeting and other planning and administration of this Program, and to improve compliance with the requirements of Section 58846.5 of the Act, the Board may recommend, and the Department may approve, contracts, or other suitable arrangements requiring payment of funds of this Program for the voluntary collection and/or reporting of data and information of such use to this Program and not otherwise available to the Board or to the Department. (Amended 5/10/83)

ARTICLE VI

BOOKS AND RECORDS

Section A. BOOKS AND RECORDS. Any and all persons or business entities subject to the provisions of this Program shall maintain books and records reflecting their operations under this Program and shall furnish to the Department or its duly authorized or designated representatives, such information as may be, from time to time, requested by them relating to operations under this Program and shall permit the inspection by said Department, or its duly authorized or designated representatives, of such portions of such books and records as relate to operations under said Program.

Section B. CONFIDENTIAL INFORMATION. Any information obtained by any person pursuant to the provisions of this Article shall be confidential and shall not be by him/her disclosed to any other person save to a person with like right to obtain the same or any attorney employed by the Department or the Board to give legal advice thereupon or by court order.

Section C. IMMUNITY. No person shall be excused from attending and testifying or from producing documentary evidence before the Department in obedience to the subpoena of the Department on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him/her may tend to incriminate him/her or subject him/her to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transactions, matter, or thing concerning which he/she may be so required to testify, or produce evidence, documentary or otherwise, before the Department in obedience to a subpoena issued by it.

ARTICLE VII

APPEALS

Section A. APPEALS. Any person or business entity affected by this Alfalfa Seed Production Research Program may petition the Department to review any order or decision of the Board or any of its committees. Any such petition must be filed in writing setting forth the facts upon which it is based.

Section B. EFFECT OF APPEAL. Pending the disposition of any appeal set forth in Section A of this Article, the parties shall abide by the order or decision of said Board, unless the Department shall rule otherwise. The Department shall, if the facts stated show reasonable grounds, grant any order or decision upon which an appeal is taken.

ARTICLE VIII

DURATION OF IMMUNITIES

Section A. DURATION OF IMMUNITIES. The benefits, privileges, and immunities conferred by virtue of the provisions hereof shall cease upon its termination, except with respect to acts done under and during the time the provisions hereof are in force and effect.

ARTICLE IX

AGENTS

Section A. AGENTS. The Department may, by designation in writing, name any person or persons, including officers or employees of the Department of Food and Agriculture, to act as its agent or agents, with respect to any provision of this Alfalfa Seed Production Research Program.

ARTICLE X

RELATION TO OTHER LEGISLATION

Section A. ANTI-TRUST LAWS. In any civil or criminal action or proceeding for violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act (Sections 16700 et seq. of the Business and Professions Code), or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with the provisions of this Program and in furtherance of the purposes and provisions of the Act shall be a complete defense to such action or proceeding.

ARTICLE XI

SEPARABILITY

Section A. SEPARABILITY. If any provision hereof is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

ARTICLE XII

EFFECTIVE TIME AND TERMINATION

Section A. EFFECTIVE TIME. This program shall become effective on the date specified by the Department and shall continue in effect until suspended or terminated by the Department, or by operation of law in accordance with the provisions of the Act. (Amended 5/1/84)

Section B. TERMINATION. Pursuant to the provisions of Section 59081 of the Food and Agricultural Code, the Department shall suspend or terminate this Program, or any provision thereof, whenever it finds, after a public hearing duly noticed and held in accordance with the provisions of Article 6 of Chapter 1, Division 21 of said Food and Agricultural Code, that this Program, or any provisions thereof, is contrary to or does not tend to effectuate the declared purposes or provisions of the Act within the standards and subject to the limitations and restrictions therein imposed; provided, that such suspension or termination shall not become effective until expiration of the then current marketing season. The Department shall also suspend the provisions or terminate this Program in accordance with the provisions of Sections 59082, 59084, or 59085 of the Act.

Section C. EFFECT OF TERMINATION, SUSPENSION, OR AMENDMENT. Unless otherwise expressly provided for in the notice of amendment, suspension, or termination, no amendment, suspension, or termination of the Program issued by the Department shall (a) affect,

waive, or terminate any right, duty, obligation or liability which shall have arisen or may thereafter arise in connection with any other provisions of said Program not so amended, suspended, or terminated; (b) release, condone, or dismiss any violation of said Program occurring prior to the effective time of such amendment, suspension, or termination; (c) affect or impair any right or remedy of the Department or of any person with respect to any such violation; or (d) affect any liabilities pursuant to the provisions of this Program